1945.

File No. Whipping II/43
Legal Department

K

B **BRANCH**

Subject:

Rules and Notifications under the

Whipping Act, 1904

P 3/E

File No. whipping II/43

Gen. 191 e.

319-B

Notification.

Home Department,
Bombay Castle, June 1943.

Whipping Act, IV of 1909.

No.6754/4.- In exercise of the powers conferred by clause (b) of section 5 of the Whipping Act,1909 (IV of 1909), the Government of Bombay is pleased to amend Government Notification in the Home Department, No.9180/3-IV(C), dated the 14th August 1940, as follows, namely:-

In the Schedule to the said notification, under the heading CENTRAL ACTS after entry No.16, the following new entry shall be inserted, namely:-

"17. The Defence of India Rules, Rules 35,36 54 and 55".

By order of the Governor of Bombay.

Secretary to Government.

EKN.13/7/

Office of the R.L.A.

The question for R.L.A's consideration is whether sections 3,4,5 and 6 of the Explosive Substances Act,1908, can be included in the Schedule to the Government Notification in the Home Department No.9180/3-IV(c),dated 14th August 1940.

2. Under section 3 of the Explosive Substances Act,1908,the punishment for causing explosion likely to endanger life or property is transportation for life or any shorter term, to which fine may be added, or with imprisonment for a term which may extended to ten years, to which fine may be added. The punishment laid down by section 4 of the Act for attempt to cause explosi or for making or keeping explosives with intent to endanger life or property is transportation fo a term which may extend to twenty years, to which fine may be added, or with imprisonment for a term which may extend to seven years, to which fine may be added, or with imprisonment for a term which may extend to five years, to which fine may be added. Section 6 prescribes for the abetment of any offence under the Act the same punishment as is provided for the offence under the Act. It will be seen from the above provisions that in all cases of punishment under the Act the punishment of fine is added to the punishment of transportation or imprisonment. It is not an alternative punishment which can be awarded instead of transportation or impr ment. The consequence is that no sentence can be imposed on a child for an offence section 3,4,5 or 6 of the Act. Therefor

view....

view of the position stated in R.L.A's opinion No.3810,dated 26.5.1943, sections 3,4,5 and 6 of the Explosives Substances Act cannot included in the Schedule to the Government Notification in the Home Department No.9180/3-IV(c', dated 14.8.1940. The presumption made in paragraph 2 of the H.D. note at page 7 ante is not correct.

2. A revised draft notification is place of the draft notification at page 9 ante is sent herewith.

Sd/P.N.M.

Remembrancer of Legal Affairs.

U.R. to H.D. No.4702,dated the 6th July 1943.

EKN.13/7/